

**OSTER**  
**Researching Services**

12897 Colonial Dr • Mt Airy, Md 21771  
301-253-6040

1-135A001

May 15, 1991

17308

Ms. Mildred Lee  
Recordations Unit  
Interstate Commerce Commission  
12th & Constitution Avenue, N.W.  
Washington, D.C. 20423

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INTERSTATE COMMERCE COMMISSION

Dear Ms. Lee:

Please find enclosed an Interim Lease Agreement dated March 26, 1991, between the following parties:

Lessor: General Motors Corporation.  
Electro-Motive Division  
LaGrange, IL 60525

Lessee: Southern Pacific Transportation Co.  
San Francisco, CA 94105

The equipment involved in this transactions includes:

Equipment: 55, GP60 3800 HP Locomotives  
SP 9715-9769

Please file this agreement as a primary document. The filing fee of \$15 is enclosed. Thank you for your assistance.

Sincerely,

*Mary A Oster*

Mary Ann Oster  
Research Consultant

Enclosures

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MOTOR VEHICLE UNIT

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INTERSTATE COMMERCE COMMISSION

# INTERIM LEASE AGREEMENT

Dated as of March 26, 1991

Between

GENERAL MOTORS CORPORATION  
(ELECTRO-MOTIVE DIVISION)

and

SOUTHERN PACIFIC TRANSPORTATION COMPANY

covering

Fifty-five (55) GP60 3,800 Horsepower Locomotives

THIS AGREEMENT, dated as of March 26, 1991, between GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION), a Delaware corporation ("Lessor"), and Southern Pacific Transportation Company, ("Lessee"), a Delaware corporation:

WITNESSETH:

WHEREAS, Lessor and Lessee entered into a Purchase Order dated March 26, 1991 ("Purchase Agreement") incorporated herein and hereby made part hereof, pursuant to which Lessor has agreed to construct and sell to Lessee or to a third party designated by Lessee (a "Purchaser") and Lessee has agreed to purchase or arrange for the purchase of fifty-five (55) GP60, 3,800 H.P. diesel electric locomotives, bearing road numbers SP 9715 through SP 9769, inclusive, (the "Locomotives"); and

WHEREAS, in furtherance of the Purchase Agreement, Lessee desires to have temporary custody, possession and use of the Locomotives as soon as each is available for delivery, solely as a Lessee, and the Lessor is willing to grant such temporary custody, possession and use to Lessee;

NOW THEREFORE, in consideration of the premises, Lessor hereby delivers to Lessee and Lessee accepts from the Lessor the Locomotives as of the date each of them is delivered to Lessee at Clearing Yard, Bedford Park, Illinois until payment in full is effected pursuant to the Purchase Agreement for all of the Locomotives upon the terms and conditions detailed below.

1. Upon delivery of each Locomotive to Lessee at Bedford Park, Illinois in a condition satisfactory to Lessee, a Lessee representative shall execute a certificate of acceptance acknowledging the receipt thereof hereunder. Title to each Locomotive shall remain in the Lessor and Lessee's rights and interests therein are and shall be solely that of possession, custody and use as Lessee hereunder.
2. Transfer of title to the Locomotives to Lessee or a Purchaser and the termination of this Agreement shall be effected only upon payment of the purchase price thereof as stated in the Purchase Agreement (the "Purchase Price") and delivery of bills of sale therefor (such bills of sale to be requested upon at least ten (10) days prior written notice by Lessee to Lessor of Lessee's intention to effect payment), but in any event prior to the later of April 1, 1992 or the 245th day following the delivery of the last locomotive hereunder. Lessee shall pay or cause a Purchaser to pay to the Lessor the purchase price of the Locomotives stated in the Purchase Agreement (the "Purchase Price") upon receipt of a bill of sale for each, pursuant to Paragraph 1 hereof at which time this Agreement will terminate. Lessee shall do such acts as may be reasonably requested by Lessor, for the protection of its title to and interest in the Locomotives during the term of this Agreement, including, but not limited to assisting Lessor in connection with the filing of any documents with the Interstate Commerce Commission.

3. Until Title is transferred pursuant to Paragraph 2 hereof, Lessee shall pay interim per diem rent for such Locomotive. Rent hereunder for each locomotive shall be an amount equal to the product of the Purchase Price thereof multiplied by the Prime Rate of Interest plus 1 1/4% published in the Wall Street Journal for each day during the period beginning on the date a certificate of acceptance is issued therefor and ending on the earlier of (a) the date payment is made therefor or (b) the later of April 1, 1992 or the 245th day after the delivery of the last Locomotive hereunder (the "Lease Termination Date") divided by 365. In no event shall Lessee retain use of the Locomotives under this Agreement beyond the Lease Termination Date, unless the parties otherwise agree in writing.
4. Lessee agrees that it will (a) use and permit third parties to use the Locomotives only in the continental United States, (b) permit no liens of any kind to remain attached to any Locomotive and (c) indemnify and save harmless the Lessor from any and all claims, expenses or liabilities of whatsoever kind, including but not limited to any liability for personal injury or property damage and any and all taxes, fines, charges and penalties that may accrue or be assessed or imposed upon the Locomotives or the Lessor solely as a result of the Lessor's ownership or because of the use, operation, management or handling of any Locomotive by Lessee during the term of this Agreement (except those that result directly from the income of Lessor). Notwithstanding the

above, Lessee shall not be required to indemnify Lessor for any claims, expenses, or liabilities resulting from Lessor's negligence or willful acts. Lessee's obligations under this Paragraph shall survive the termination of this Agreement.

5. Lessee will, at its own expense, subject to the Warranty provisions of the Purchase Agreement, keep and maintain each Locomotive in good order and running condition and shall, at its option, replace or repair any component or part of any Locomotive damaged or destroyed by any cause during the term hereof or promptly pay to the Lessor the Purchase Price of any Locomotive which may in the opinion of Lessor be damaged beyond economic repair by any cause during the term hereof.
6. In the event Lessee or a Purchaser fails to pay the Purchase Price plus any rent due hereunder by the later of April 1, 1992 or the 245th day following the delivery of the last locomotive hereunder, then Lessor may, by its agents, enter upon the premises of Lessee and take possession of all or any such Locomotives as may be present and thenceforth hold and possess same free from any right of Lessee, or its successors or assigns, to use the Locomotives for any purposes whatsoever. Lessor may thereafter sell and deliver the Locomotives to others upon such terms as Lessor, at its sole discretion may determine it being understood and agreed that Lessee shall be liable to Lessor for the amount by which the price paid by such other parties is less than the sum of the Purchase

Price, interim rent due hereunder and all reasonable expenses incident to such sale, including but not limited to the cost of obtaining the Locomotives, providing for their safekeeping, and selling them. Lessee shall pay all such amounts upon demand by Lessor.

7. Lessee represents and warrants that:

- a. The execution and delivery of this agreement is (i) within its corporate authority, (ii) authorized by all necessary proper corporate proceedings and (iii) consistent with its charter and by-laws;
- b. The rights of Lessor as herein set forth and the title of Lessor to the Locomotives are senior to the lien of any mortgage, security agreement or other instrument binding upon Lessee;
- c. Notices in connection with this Agreement shall be in writing, effective upon receipt and delivered either in person or by certified mail, return receipt requested. Such notices shall be addressed as follows:

To Lessee at:

Southern Pacific Bldg.  
One Market Plaza  
San Francisco, CA 94105  
Attn: Treasurer

and

Southern Pacific Bldg.  
One Market Plaza  
San Francisco, CA 94105  
Attn: V.P. & General Counsel

To Lessor at:

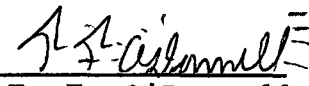
Electro-Motive Division  
LaGrange, Illinois 60525  
Attn: Comptroller

THIS AGREEMENT shall be governed by and construed in accordance with the laws of the State of Illinois.

Attest:

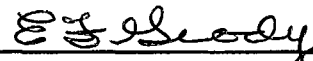
SOUTHERN PACIFIC TRANSPORTATION COMPANY

By:



T. F. O'Donnell, Secretary

By:

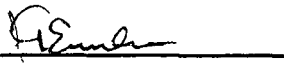


E. F. Grady, Treasurer

Attest:

GENERAL MOTORS CORPORATION  
ELECTRO-MOTIVE DIVISION

By:

  
Asst Sec.

By:



Assistant Comptroller



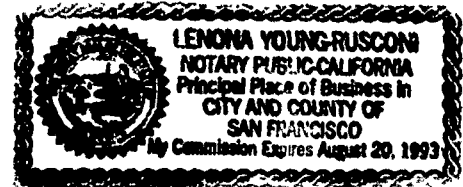
State of California ) ss:  
County of San Francisco )

On this 29<sup>th</sup> day of April, 1991, before me personally appeared  
E. F. Grady, to me personally known, who, being by me duly sworn,  
says that he is Treasurer of Southern Pacific Transportation Company, that  
the foregoing instrument was executed on behalf of said Corporation by authority  
of its Board of Directors, and he acknowledged that the execution of the foregoing  
instrument was the free act and deed of said Corporation.

(Notarial Seal)

Lenora Young-Rusconi  
Notary Public

My Commission expires: August 20, 1993



State of Illinois ) ss:  
County of Cook )

On this 26 day of March, 1991, before me personally appeared  
W.W. Werner, to me personally known, who, being by me duly sworn,  
says that he is Asst. Comptroller of GENERAL MOTORS CORPORATION  
(ELECTRO-MOTIVE DIVISION), that the foregoing instrument was executed on  
behalf of said Corporation by authority of its Board of Directors, and he  
acknowledged that the execution of the foregoing instrument was the free act and  
deed of said Corporation.

(Notarial Seal) "OFFICIAL SEAL"  
Juanita Acantilado  
Notary Public, State of Illinois  
My Commission Expires 4/17/92

My Commission expires: 4-17-92

Juanita Acantilado  
Notary Public